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HOUSE BILL 206

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

LUCIANO "LUCKY" VARELA

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO DEPOSIT OF PUBLIC MONEY; EXTENDING THE TIME FOR
DEPOSIT OF CERTAIN RECEIPTS OF THE TAXATION AND REVENUE
DEPARTMENT; AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-10-3 NMSA 1978 (being Laws 1923,
Chapter 76, Section 2, as amended) is amended to read:

"6-10-3. PAYMENT OF STATE MONEY INTO TREASURY--SUSPENSE
FUNDS. -- [~~Thirty days from the taking effect of Chapter 6,
Article 10 NMSA 1978]~~

A. All public money in the custody or under the
control of any state official or agency obtained or received
by any official or agency from any source, except as provided
in Section 6-10-54 NMSA 1978 [~~provided~~], shall be paid into
the state treasury. It is the duty of every official or

Underscored material = new
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1 person in charge of any state agency receiving any money in
2 cash or by check, draft or otherwise for or on behalf of the
3 state or any agency thereof from any source, except as
4 provided otherwise in this section or in Section 6-10-54 NMSA
5 1978, [~~provided, to forthwith and~~] to deliver or remit it to
6 the state treasurer before the close of the next succeeding
7 business day after the receipt of the money. [~~to deliver or~~
8 ~~remit it to the state treasurer. Provided, however, that~~]

9 B. The following are exceptions to the provisions
10 of Subsection A of this section:

11 (1) the money collected by the state [~~park~~
12 ~~and recreation~~] parks division of the energy, minerals and
13 natural resources department shall be deposited into the state
14 treasury no later than ten days following collection;
15 [~~Provided that~~]

16 (2) county treasurers shall remit all money
17 received for taxes for state purposes or which are by law
18 required to be remitted to the state treasurer on or before
19 the tenth day of the next succeeding month following the
20 receipt or collection thereof; [~~Provided further that~~]

21 (3) every official or person in charge of any
22 state agency receiving any money, except as provided in
23 Section 6-10-54 NMSA 1978 [~~provided~~], in cash or by check,
24 draft or otherwise, on deposit, in escrow or in evidence of
25 good faith to secure the performance of any contract or

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1 agreement with the state or with any department, institution
2 or agency of the state, which money has not yet been earned so
3 as to become the absolute property of the state, shall deliver
4 or remit to the state treasurer within the times and in the
5 manner provided in this section [~~provided~~], which money shall
6 be by the state treasurer deposited in a suspense account to
7 the credit of the proper official, person, board or bureau in
8 charge of any state agency so receiving the money; provided,
9 however, that all money held by the commissioner of public
10 lands on deposit, in escrow or in evidence of good faith to
11 secure the performance of any contract or agreement with the
12 state shall be delivered or remitted to the state treasurer
13 within six months from the date this act is approved and at
14 those times, in the amounts and from the various banks in
15 which it is deposited as may be directed by the state board of
16 finance; and

17 (4) money received by the taxation and
18 revenue department at any of its offices other than offices
19 located in Santa Fe county or in Bernalillo county shall be
20 deposited into the state treasury no later than five days
21 following receipt. "

22 Section 2. Section 7-1-6 NMSA 1978 (being Laws 1978,
23 Chapter 55, Section 1, as amended) is amended to read:

24 "7-1-6. RECEIPTS--DISBURSEMENTS--FUNDS CREATED. --

25 A. All money received by the department with

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1 respect to laws administered under the provisions of the Tax
2 Administration Act shall be deposited with the state treasurer
3 before the close of the next succeeding business day after
4 receipt of the money, except that:

5 (1) for 1989 and every subsequent year, money
6 received with respect to the Income Tax Act during the period
7 starting with the fifth day prior to the due date for payment
8 of income tax for the year and ending on the tenth day
9 following that due date shall be deposited before the close of
10 the tenth business day after receipt of the money; and

11 (2) money received by the department at any
12 of its offices other than offices located in Santa Fe county
13 or in Bernalillo county shall be deposited with the state
14 treasurer before the close of the fifth business day after
15 receipt of the money.

16 B. Money received or disbursed by the department
17 shall be accounted for by the department as required by law or
18 regulation of the secretary of finance and administration.

19 C. Disbursements for tax credits, tax rebates,
20 refunds, the payment of interest, the payment of fees charged
21 by attorneys or collection agencies for collection of accounts
22 as agent for the department, the payment of credit card
23 service charges on payments of taxes by use of credit cards,
24 distributions and transfers shall be made by the department of
25 finance and administration upon request and certification of

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1 their appropriateness by the secretary or the secretary's
2 delegate. There are hereby created in the state treasury the
3 "tax administration suspense fund", the "extraction taxes
4 suspense fund" and the "workers' compensation collections
5 suspense fund" for the purpose of making the disbursements
6 authorized by the Tax Administration Act.

7 D. All revenues collected or received by the
8 department pursuant to the provisions of the taxes and tax
9 acts administered under Subsection A of Section 7-1-2 NMSA
10 1978 shall be credited to the tax administration suspense fund
11 and are appropriated for the purpose of making the
12 disbursements authorized under this section or otherwise
13 authorized or required by law to be made from the tax
14 administration suspense fund.

15 E. All revenues collected or received by the
16 department pursuant to the taxes or tax acts administered
17 under Subsection B of Section 7-1-2 NMSA 1978, other than
18 amounts required to be credited to the oil and gas protested
19 payments suspense fund, shall be credited to the extraction
20 taxes suspense fund and are appropriated for the purpose of
21 making the disbursements authorized under this section or
22 otherwise authorized or required by law to be made from the
23 extraction taxes suspense fund.

24 F. All revenues collected or received by the
25 department pursuant to the taxes or tax acts administered

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1 under Subsection C of Section 7-1-2 NMSA 1978 may be credited
2 to the tax administration suspense fund, unless otherwise
3 directed by law to be credited to another fund or agency, and
4 are appropriated for the purpose of making disbursements
5 authorized under this section or otherwise authorized or
6 required by law.

7 G. All revenues collected or received by the
8 department pursuant to the provisions of Section 52-5-19 NMSA
9 1978 shall be credited to the workers' compensation
10 collections suspense fund and are appropriated for the purpose
11 of making the disbursements authorized under this section or
12 otherwise authorized or required by law to be made from the
13 workers' compensation collections suspense fund.

14 H. Disbursements to cover expenditures of the
15 department shall be made only upon approval of the secretary
16 or the secretary's delegate.

17 I. Miscellaneous receipts from charges made by the
18 department to defray expenses pursuant to the provisions of
19 Section 7-1-5 NMSA 1978 and similar charges are appropriated
20 to the department for its use.

21 J. From the tax administration suspense fund,
22 there may be disbursed each month amounts approved by the
23 secretary or the secretary's delegate necessary to maintain a
24 fund hereby created and to be known as the "income tax
25 suspense fund". The income tax suspense fund shall be used

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1 for the payment of income tax refunds. "

2 Section 3. Section 66-6-22.1 NMSA 1978 (being Laws 1990,
3 Chapter 120, Section 34) is amended to read:

4 "66-6-22.1. MOTOR VEHICLE SUSPENSE FUND CREATED--
5 RECEIPTS--DISBURSEMENTS. --

6 A. There is created in the state treasury a fund
7 to be known as the "motor vehicle suspense fund".

8 B. The fees collected under the provisions of
9 Sections 66-1-1 through 66-6-18 NMSA 1978 shall be paid to the
10 state treasurer for the credit of the motor vehicle suspense
11 fund not later than the close of the [~~second~~] next business
12 day after their receipt with respect to fees collected at
13 department offices in Santa Fe county and in Bernalillo county
14 and no later than the close of the fifth business day
15 following their receipt at department offices in all other
16 counties.

17 C. Money deposited to the credit of or disbursed
18 from the motor vehicle suspense fund shall be accounted for as
19 provided by law or regulation of the secretary of finance and
20 administration. Disbursements from the motor vehicle suspense
21 fund shall be made by the department of finance and
22 administration upon request and certification of their
23 appropriateness by the secretary of finance and administration
24 or the secretary's delegate.

25 D. The balance of the motor vehicle suspense fund

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1 is appropriated for the purpose of making refunds,
2 distributions and other disbursements authorized or required
3 by law to be made from the motor vehicle suspense fund,
4 provided that no distribution shall be made to a municipality,
5 county or fee agent operating a motor vehicle field office
6 with respect to money collected and remitted to the department
7 by that municipality, county or fee agent until the report of
8 the municipality, county or fee agent is audited and accepted
9 by the department. "

10 Section 4. EFFECTIVE DATE. --The effective date of the
11 provisions of this act is July 1, 1998.